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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,928	06/28/2001	Scott Cann	39035/215341	5387

826 7590 03/12/2003

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EXAMINER

BERRY, WILLIE WENDELL JR

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/893,928	CANN ET AL.
	Examiner Willie Berry, Jr.	Art Unit 3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 08 April 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-27 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 16 is/are allowed.

6) Claim(s) 1-4,8,10-14,17,18,21 and 24-27 is/are rejected.

7) Claim(s) 5-7, 9, 15,19,20,22, and 23 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 8, 10-14, 17, 18, 21, and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iida et al.

Iida discloses an apparatus and method for recycling slurry comprising: a dirty slurry return conduit (111), a first screen filter (4), a dirty slurry storage tank (121), a second filter (7), a clean slurry storage tank (60), a clean slurry supply conduit (not numbered but shown in figure 1 between reference numbers 7 and 60), a slurry pump (column 6, lines 32-36) and a pH adjuster (5b).

Iida does not disclose the specific location of the filters and tanks, the specific flow rate and pressure of the pump, cleaning the secondary filter and size of the filters.

The specific location of the filters and tanks, the specific flow rate and pressure of the pump, and size of the filters would have been obvious to one having ordinary skill in the art at the time the invention was made, since it is within the general skill of a worker in the art to rearrange parts and discover optimum or workable ranges of an invention on the basis of their suitability for

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the user's preference as an obvious matter of design choice. Cleaning the secondary filter would have been obvious since it is known in the art that a clean apparatus normally operates more efficiently.

***Response to Arguments***

3. Applicant's arguments filed 4/8/02 have been fully considered but they are not persuasive. Applicant argues the change in location of the second filter of Iida would destroy the intended purpose of the patent. The examiner disagrees because to rearrange parts of an invention is a matter of preference and Iida discloses a filter between the dirty slurry tank and clean slurry tank, which renders this concept as known within the art.

***Allowable Subject Matter***

4. Claim 16 is allowed.

5. Claims 5-7, 9, 15, 19, 20, 22, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 7 and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication from the examiner should be directed to Willie Berry whose telephone number is (703) 308-7467.

*WB*

Willie Berry, Jr. :wbj  
March 10, 2003

*Joseph J. Hail, III*

Joseph J. Hail, III  
Supervisory Patent Examiner  
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